

Advisory Opinions

Federal Election Commission

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This page provides information about how to request an advisory opinion from the Federal Election Commission. An advisory opinion is the Commission's official response to a question about how federal campaign finance law applies to a specific factual situation. For complete information about advisory opinions, the reader should not rely solely on this page but should also consult the relevant laws and regulations. 2 U.S.C. § 437f; 11 C.F.R. Part 112. If you have any questions after reviewing this page and the relevant legal provisions, please call the Commission at (202) 694-1100, or toll-free at (800) 424-9530.

All advisory opinions are [available on the Commission's website](#).

What topics can the Commission address in an advisory opinion?

The Commission can issue an advisory opinion about how federal campaign finance law applies to a specific transaction or activity that the requestor plans to undertake, or that the requestor is currently undertaking and plans to continue. 11 C.F.R. § 112.1(b). The legal provisions that the Commission can answer questions about are: (1) the [Federal Election Campaign Act](#), which is codified at Title 2 of the U.S. Code, Sections 431-457; (2) the laws about public financing of presidential campaigns and conventions, which are codified at Title 26 of the U.S. Code, Chapters 95 and 96; and (3) the Commission's [regulations](#), which are codified at Title 11 of the Code of Federal Regulations. 11 C.F.R. § 112.1(a).

Can anyone request an advisory opinion?

Yes, as long as the requestor is actually affected by the question that he or she presents; a requestor cannot ask for an advisory opinion about someone else's activities, hypothetical situations, or general questions of law. 11 C.F.R. § 112.1(a)-(b). The requestor can make the request through an authorized agent, provided that the agent discloses whom he or she is representing. 11 C.F.R. § 112.1(a). The Commission does not issue advisory opinions in response to anonymous requests.

Must an advisory opinion request follow any special format?

The request must be in writing, and it must include a complete description of all facts relevant to the specific transaction or activity. 2 U.S.C. § 437f(a)(1); 11 C.F.R. § 112.1(a)-(c).

Where should the request be sent?

Requests for advisory opinions should be sent to the Federal Election Commission, Office of General Counsel, 999 E Street, N.W., Washington, D.C. 20463. 11 C.F.R. § 112.1(e).

What happens to the request once the Commission receives it?

Within ten days of receiving the request, the Commission's Office of General Counsel reviews it to determine whether it qualifies as a complete advisory opinion request ("AOR"). 11 C.F.R. § 112.1(d). If the request qualifies as an AOR, it is assigned an AOR number and promptly made public [on the Commission's website](#) and in the Commission's Public Records Office.¹ 11 C.F.R. §§ 112.1(f), 112.2. If the request does not qualify as an AOR, the Office of General Counsel notifies the requestor of the specific deficiencies in the request. 11 C.F.R. § 112.1(d).

Why would a request not qualify as a complete advisory opinion request ("AOR")?

A request does not qualify as a complete AOR if it:

- Asks a general question of interpretation;
- Asks about a hypothetical situation;
- Asks about the activities of someone other than the requestor;
- Asks about past activities that the requestor does not plan to continue in the future; or
- Does not contain all of the factual information relevant to the activity that is the subject of the request.

11 C.F.R. § 112.1(b)-(c).

What happens after a request qualifies as a complete AOR?

Once the Commission makes the AOR public, the Commission accepts public comments about it. 11 C.F.R. § 112.3(b).

How do interested parties submit comments on AORs?

Comments on AORs should be submitted in writing to the Commission's Office of General Counsel within ten days after the AOR is made public. 2 U.S.C. § 437f(d); 11 C.F.R. § 112.3. The Commission can (but is not required to) allow comments to be submitted after more than ten days. 11 C.F.R. § 112.3(b). Comments should refer to the AOR number of the request being commented on. 11 C.F.R. § 112.3(c). Comments on AORs are made public on the Commission's website.

How long does it take for the Commission to issue an advisory opinion?

The law generally requires the Commission to issue an advisory opinion within 60 days of receiving a complete AOR. 2 U.S.C. § 437f(a)(1). But if the AOR is submitted by a federal candidate within 60 days before an election, and the AOR asks about a specific transaction or activity related to that election, then the Commission must respond to the AOR within 20 days. 2 U.S.C. § 437f(a)(2); 11 C.F.R. § 112.4(b). In addition, the Commission has an informal practice of attempting to respond to certain significant, time-sensitive AORs within 30 days. See [74 Fed. Reg. 32160 \(July 7, 2009\)](#).

¹ Please note that the Commission charges a fee for photocopying documents in its Public Records Office. There is no fee to access or print any of the materials on the Commission's website.

If the deadline for issuing an advisory opinion falls on a weekend or holiday, the deadline is moved to the next business day. 11 C.F.R. § 112.4(c).

What does it mean if the Commission asks for an extension of the deadline?

The Commission occasionally asks a requestor to extend the 60- or 20-day deadline for issuing an advisory opinion. Usually, this is because the Commission requires more time to consider an AOR that raises complex legal or factual issues. While agreeing to extend the deadline may facilitate the Commission's consideration of the AOR, the requestor is never required to grant an extension.

How does the Commission issue an advisory opinion?

The Commission issues an advisory opinion when four or more Commissioners vote to approve it. 2 U.S.C. § 437c(c). These votes almost always occur during an [open meeting of the Commission](#). Before the meeting where the Commission is scheduled to vote on an advisory opinion, the Commission will make public any draft advisory opinions it intends to consider at the meeting. Copies of these drafts are emailed to the requestor and placed on the Commission's website.

Can the requestor or the public comment on a draft advisory opinion before the draft is considered by the Commission in an open session?

Yes. The procedures for commenting on draft advisory opinions are [explained on the Commission's website](#).

Can the requestor appear before the Commission to answer questions regarding the AOR?

Yes, a requestor has the option to appear before the Commission at the open session where the Commission considers the requestor's AOR. The procedures for these appearances have been [published in the Federal Register](#) and are [explained on the Commission's website](#).

Can the requestor withdraw an AOR?

Yes, the requestor can withdraw an AOR by submitting a written statement of withdrawal before the Commission votes to approve the advisory opinion.

What happens after the Commission votes to approve an advisory opinion?

The advisory opinion is [placed on the Commission's website](#) and sent to the requestor by certified mail. See 11 C.F.R. § 112.4(g).

What happens when the Commission does not approve an advisory opinion?

When at least four Commissioners do not vote to approve an advisory opinion in response to an AOR, the Commission's Office of General Counsel sends the requestor a

letter stating that the Commission was unable to approve an advisory opinion. This letter is also included in the public record of the AOR [on the Commission's website](#).

Who can rely on an advisory opinion?

An advisory opinion provides certain legal protections to any person who (1) engages in activity that is “indistinguishable in all its material aspects” from the activity about which the advisory opinion is issued, and (2) acts in good faith in accordance with the opinion. 2 U.S.C. § 437f(c); 11 C.F.R. § 112.5.

Can the Commission reconsider an advisory opinion that has already been issued?

Yes, a Commissioner who voted in the majority to approve an advisory opinion can move to reconsider the opinion. A Commissioner may move for reconsideration either in response to a written request submitted by the original requestor within 30 days of the opinion being issued, or on the Commissioner's own initiative. 11 C.F.R. § 112.6(a)-(b). If at least four Commissioners vote to reconsider the advisory opinion, that opinion is vacated, 11 C.F.R. § 112.6(d), and the Commission then proceeds to reconsider the substance of the original AOR.